

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : ERNST RYTZ ET AL. Docket No.: 01-732
Confirmation No.: 5092
Serial No. : 10/018,609 Customer No.: 34704
Filed : February 11, 2002
TC/A.U. : 3724
Examiner : Sean M. Michalski

Mailstop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Pre-Appeal Brief Request for Review: Reasons

Dear Sir:

This paper is submitted accompanying a Pre-Appeal Brief Request for Review.

In the Office action from which appeal is taken, the Examiner rejected claims 1-3, 7, 8 and 10 as being unpatentable over the combination of U.S.P.N. 3,570,343 ("Wolnosky") in view of U.S.P.N. 4,905,556 ("Haack"), and rejected claim 4 as being unpatentable over the combination of Wolnosky in view of Haack as applied to claims 1 and 3 above, and further in view of U.S.P.N. 6,240,818 ("Baltischun").

Applicants turn their attention to the claimed apparatus for fine blanking of workpieces from a material recited in claims 1 and 10. Claims 1 and 10 recite the at least one compensation cylinder is hydraulically connected to the V-ring cylinder through a hydraulic connection and is in hydraulic equilibrium with the V-ring cylinder.

Dating back to Applicants' response dated February 1, 2006, Applicants have stated Haack at column 3, lines 2-6 discloses the piston cylinders 13-16 act independently of one another and the pressures effective therein can be

individually adjusted as well as individually switched on and off via valve 57. In contrast, at least one compensation cylinder is in hydraulic equilibrium with the V-ring cylinder of Applicants' claims 1 and 10.

In addition, Applicants' claims 1 and 10 recite the hydraulic connection also having a connection to an oil tank via a logic valve.

Wolnosky teaches and suggests using two separate logic valves and tanks as illustrated in the Figure and taught at col. 2, l. 8-col. 3, l. 58. Likewise, Haack teaches and suggests using two separate logic valves to deliver pressurized oil to the hydraulic units as illustrated in Figure 3 and taught at col. 2, l. 61-col. 3, l. 6. Haack further teaches the benefits and advantages in using this hydraulic power set-up based upon the graph of Figure 9 contained therein. Figure 9 illustrates the plotted curves representing the harmonized movements of the ram and transfer press and of the individual pistons, and further teaches the advantageous pressing and cutting forces are achieved based upon these harmonized movements.

Applicants contend one of ordinary skill in the art would not combine the references and consolidate parts to eliminate a logic valve as neither Wolnosky nor Haack provide the requisite motivation to do so. The only teaching or suggestion to utilize a hydraulic connection with a single logic valve and an oil tank is Applicants' claims. No other source provides such teachings other than Applicants' claims.

In addition to, or in the alternative, if one of ordinary skill in the art were to combine Wolnosky in view of Haack and utilize only a single logic valve, the proposed blanking punch would be rendered inoperable as

there is insufficient disclosure to teach connecting hydraulically the opposed die members using only a single tank and a single logic valve. Moreover, Applicants contend Haack does not teach or suggest eliminating a logic valve and consolidating the hydraulics as Haack teaches the advantages achieved, that is, the harmonized movements of the ram and individual pistons, using the hydraulics taught therein.

The Examiner responded by relying upon the KSR and Dystar decisions to suggest motivation **need not be found in the references sought to be combined**, but may be found in any number of sources, **including common knowledge**, the prior art as a whole **or the nature of the problem itself** (emphasis added by the Examiner, Final Office action mailed October 24, 2007). However, Neither KSR nor Dystar stand for the proposition that an Examiner can derive the basis for motivation using Applicants' disclosure and claims. By making this statement, the Examiner acknowledges neither Wolnosky nor Haack disclose the teaching, suggestion or requisite motivation to support a finding of obviousness. At the same time, the Examiner has also not identified a single source of common knowledge or identified the nature of the problem (other than the elimination of a tank for reducing cost and complexity, Final Office action mailed October 24, 2007, page 3) and explained how the combined teachings of the cited references overcome the problem. To Applicants' knowledge the Examiner has solely relied upon Applicants' disclosure and claims 1 and 10, and such reasoning is not legally valid. Claims 1 and 10 cannot be rejected under 35 U.S.C. §103 unless the combined teachings of the cited prior art references teach, suggest or provide the requisite motivation to teach each and every element of

the claim. Wolnosky in view of Haack does not do this. Withdrawal of the rejection against claims 1 and 10 is earnestly solicited.

Claim 2 recites four compensation cylinders are provided. The past Examiners have all characterized the cylinders 66/68 of Wolnosky as being "compensation cylinders" as recited in Applicants' claim 2. However, the cylinders 66, 68 of Wolnosky are not actually compensation cylinders as evidenced by their location and orientation within the Wolnosky apparatus. The Wolnosky cylinders 66/68 are part of a hydraulic cushion 30 because the cylinders 66/68 are arranged between the die member 24 and the cushion pad 62 and directly between the gripping ring 42 and main cylinder. The die member 24 is the lower die member and the gripping ring 42 having a V-shaped cross-section is provided on this lower die member as described at column 2, lines 27-35 of Wolnosky. As Haack does not include a V-ring cylinder in his apparatus, Haack cannot provide a basis for teaching the compensation cylinders of Applicants' claim 2. Wolnosky in view of Haack fails to teach or suggest the subject matter of claim 2, and this claim is therefore allowable based upon its own merits and also based upon dependency from claim 1.

Claim 3 recites a compensation piston is arranged in the compensation cylinder and is firmly connected to the ram via a piston rod. Applicants reiterate their position that Wolnosky does not actually teach the use of a compensation cylinder in their apparatus as discussed above. Wolnosky in view of Haack fails to teach or suggest the subject matter of claim 3, and this claim is therefore allowable based upon its own merits and also based upon dependency from claim 1.

Claim 4 recites the effective cross-sectional area of the compensation piston is equal to an effective cross-sectional area of the V-ring piston of the V-ring cylinder. The Examiner relies upon Baltschun to teach the importance of equal piston areas of opposed cylinders in a blanking device to achieve an equilibrium state. Applicants note the Baltschun does not teach or suggest (a) the use of compensation cylinders or (b) a hydraulic connection between the cylinders taught therein and a V-ring cylinder. Notwithstanding the remainder of Baltschun's teachings, Baltschun still does not change the fact that Wolnosky does not actually teach the use of a compensation cylinder in their apparatus as discussed above. Wolnosky in view of Haack and further in view of Baltschun fails to teach or suggest the subject matter of claim 4, and this claim is therefore allowable based upon its own merits and also based upon dependency from claim 3 and ultimately claim 1. Withdrawal of the rejection against claim 4 is earnestly solicited.

Claim 7 recites a piston of the main cylinder has an effective cross-sectional area which greater than that of a compensation piston of the compensation cylinder. Again, Applicants reiterate their position that Wolnosky does not actually teach the use of a compensation cylinder in their apparatus as discussed above. Wolnosky in view of Haack fails to teach or suggest the subject matter of claim 7, and this claim is therefore allowable based upon its own merits and also based upon dependency from claim 1.

Respectfully submitted,

By /Ross J. Christie #47,492/

Ross J. Christie

Date: April 24, 2008

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

01-732

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Signature _____

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Application Number

10/018,609

Filed

February 11, 2002

First Named Inventor

Ernst Rytz

Art Unit

3724

Examiner

Michalski, Sean M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Ross J. Christie #47,492/

Signature

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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April 24, 2008

Date

Registration number if acting under 37 CFR 1.34 _____

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